

REMARKS/ARGUMENTS

Claim Status

Claims 1-35 are pending. Claims 1, 5-8, 17, 19, 20, 28, and 29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,778,052 to Rubin et al., hereinafter "Rubin," in view of U.S. Patent No. 5,463,677 to Bash et al., hereinafter "Bash." Claims 2 and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Rubin in view of Bash and further in view of U.S. Patent No. 5,797,124 to Walsh et al., hereinafter "Walsh." Claims 3 and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Rubin in view of Bash and further in view of U.S. Patent No. 5,475,737 to Garner et al., hereinafter "Garner." Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Rubin in view of Bash and further in view of U.S. Patent No. 6,418,306 to McConnell et al., hereinafter "McConnell." Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Rubin in view of Bash and further in view of U.S. Patent No. 6,411,704 to Pelletier et al., hereinafter "Pelletier." Claims 10-12 and 21-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Rubin in view of Bash and further in view of U.S. Patent No. 5,396,542 to Alger et al., hereinafter "Alger."

Claims 13, 15, 16, 30, 31, and 35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over McConnell in view of Bash. Claim 14 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over McConnell in view of Bash and further in view of Walsh. Claims 26 and 27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Rubin in view of Bash and further in view of U.S. Patent No. 6,442,250 to Troen-Krasnow et al., hereinafter "Troen-Krasnow." Claim 32 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over McConnell in view of Bash and further in view of Troen-Krasnow. Claims 33 and 34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over McConnell in view of Bash and further in view of Rubin.

Claims 1, 13, 17, and 30 have been amended and claims 36-39 have been added. No new matter has been added.

Applicant respectfully traverses the grounds for rejection and requests reconsideration and withdrawal of the rejections of claims 1-35 in view of the following.

Rejections Under 35 U.S.C. § 103

Independent Claims 1, 13, 17, and 30

Independent claims 1, 13, 17, and 30 each include features that are neither disclosed nor suggested by the cited references, either taken alone or in combination, namely as represented by claim 1:

1. (Currently Amended) A system for receiving a message from a calling party associated with a telephone with a calling line number associated with a first service switching point and providing said message to a called party associated with a telephone with a called line number, comprising:

a ***second service switching point connected to said telephone with said called line number, said second service switching point comprising a trigger responsive to a busy status on said called line number and said called line number is not subscribed to any voice messaging system;***

a signal transfer point adapted to communicate with said second service switching point;

a service control point adapted to communicate with said signal transfer point, said service control point containing a database; and

a service node connected to said second service switching point through a first data link, and connected to said service control point through a second data link;

wherein said second service switching point sends a query to said service control point responsive to said trigger, said service control point commands one of said service node and said first service switching point to prompt for permission to leave a message from said telephone with said calling line number, said service node is adapted to receive said message from said calling party into a voice messaging system when said called line number has a busy status, store said message, and deliver said message to said called party responsive to a request from said called party if one of said service node and said first service switching point receives permission to leave a message from said telephone with said calling line number. (emphasis added)

Claims 1, 13, 17, and 30 are directed to delivering a message to a called line number using a trigger responsive to a busy status on the called line number even though the called line number is not subscribed to any voice messaging system. The trigger is set on the service switching point (the second service switching point) of the *called* line.

The examiner avers that Rubin *inherently* includes a trigger (for claims 1 and 17). For a reference to inherently disclose a characteristic, the examiner must make a showing that the alleged inherent characteristic ***necessarily*** flows from the teaching of the applied prior art.

Ex parte Levy, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The examiner has not yet made a showing that this characteristic necessarily flows from Rubin. For example, instead of implementing a trigger on the SSP, any communication device could monitor the called party's line to determine the answer/busy status. Therefore, the examiner has not shown that Rubin inherently includes a trigger on an SSP. (An analogous argument applies to the examiner's use of McConnell for claims 13 and 30.)

Moreover, the examiner has not shown a suggestion or motivation for setting the trigger on the *second* SSP (i.e., the SSP of the called party). Conventional placement of a trigger is on the SSP of the party subscribing to or being billed for a service (e.g., the calling party in this case). This is exactly opposite of what is claimed.

Accordingly, applicant submits that the cited references, either taken alone or in combination, do not disclose or suggest the features of independent claims 1, 13, 17, and 30. Additionally, inasmuch as dependent claims 2-12, 14-16, 18-29, and 31-35 (which have also been rejected) are dependent on claims 1, 13, 17, or 30, these claims are patentable over the cited reference, at least by virtue of their dependency. Accordingly, applicant respectfully requests reconsideration and withdrawal of the rejections of claims 1-35 under 35 U.S.C. § 103(a).

Dependent Claims 2, 14, and 25

Dependent claims 2, 14, and 25 each include features that are neither disclosed nor suggested by the cited references, either taken alone or in combination, namely as represented by claim 2:

2. (Original) The system of claim 1 wherein said request from said called party is ***a call from said called line number to said voice messaging system.***

Additionally, claim 1, from which claim 2 depends recites that said ***called line number is not subscribed*** to any voice messaging system.

The examiner contends that Walsh discloses a call from a called line number to request a message. Walsh, however, clearly states that the “**subscriber** calls in to retrieve messages” (Walsh at c. 3, l. 36 emphasis added). In direct contrast, the claims include a **non-subscriber** call from a called line number to request a message.

Accordingly, applicant submits that the cited references, either taken alone or in combination, do not disclose or suggest the features of dependent claims 2, 14, and 25. Accordingly, applicant respectfully requests reconsideration and withdrawal of the rejections of claims 2, 14, and 25 under 35 U.S.C. § 103(a).

Dependent Claims 3 and 18

Dependent claims 3 and 18 each include features that are neither disclosed nor suggested by the cited references, either taken alone or in combination, namely as represented by claim 3:

3. (Original) The system of claim 1 further comprising **a message waiting indication to said called party**.

Additionally, claim 1, from which claim 3 depends recites that said **called line number is not subscribed** to any voice messaging system.

The examiner contends that Garner discloses a message waiting indication to a called party. Garner, however, clearly states that the an indication provided when a new message is stored in the **subscriber's** mailbox (Garner at c. 11, ll. 62-3). In direct contrast, the claims include a message waiting indication to a **non-subscriber** called party.

Accordingly, applicant submits that the cited references, either taken alone or in combination, do not disclose or suggest the features of dependent claims 3 and 18. Accordingly, applicant respectfully requests reconsideration and withdrawal of the rejections of claims 3 and 18 under 35 U.S.C. § 103(a).

Newly Added Claims

DOCKET NO.: BELL-0061/00230
Application No.: 09/734,818
Office Action Dated: May 12, 2003


PATENT

Claims 36-39 have been newly added to further define the invention. No new matter has been added. Support for the newly added claims can be found in the application as originally filed at least at page 14, line 17.

Conclusion

For all the foregoing reasons, applicant respectfully submits that the present application is now in condition for allowance. Reconsideration of the Office Action and an early Notice of Allowance are respectfully requested. In the event that the examiner cannot allow the present application for any reason, the examiner is encouraged to contact the undersigned attorney, Raymond N. Scott Jr. at (215) 564-8951, to discuss resolution of any remaining issues.

Date: August 12, 2003



Raymond N. Scott, Jr.
Attorney for Applicant
Registration No. 48,666

Woodcock Washburn LLP
One Liberty Place - 46th Floor
Philadelphia PA 19103
Telephone: (215) 568-3100
Facsimile: (215) 568-3439